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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

EMMANUEL ADDO KPALEH,

Defendant.

**POSITION OF PARTY WITH RESPECT
TO SENTENCING FACTORS**

Civil No. 2:20-cr-404 HCN

Judge Howard C. Nielson, Jr.

Emmanuel Kpaleh, through counsel, submits this statement regarding sentencing factors:

ARGUMENT

I. A Downward Departure Under §5H1.1 is Appropriate

Section 5H1.1 was amended effective November 1, 2024. The revised guideline is based upon the input of experts including neuroscientists, psychologists, as well as advisory groups and criminal justice experts.¹

¹ https://www.ussc.gov/sites/default/files/pdf/amendment-process/amendments-in-brief/AIB_2024-youthful.pdf

The revised guideline provides broadly: “Age may be relevant in determining whether a departure is warranted” and a downward departure may be warranted “due to the defendant’s youthfulness at the time of the offense....” The guideline identifies risk factors for young people including substance use, and states “youthful individuals are more impulsive, risk-seeking and susceptible to outside influence as their brains continue to develop into adulthood.” “The “age-crime curve, one of the most consistent findings in criminology, demonstrates that criminal behavior tends to decrease with age.”

Here, Kpaleh was barely an adult— he was only 18 years old when the offense conduct began.² Kpaleh’s age, immaturity, drug use and impulsiveness were the moving factors behind his criminal conduct, and are the best explanation for his conduct. Kpaleh comes from a strong family, his father is a preacher, and both parents are nurses. His mother works at the University of Utah Hospital.

Now that Kpaleh is 23 years old, and has been incarcerated for nearly two years, Kpaleh has grown and, as would be expected, he thinks differently than he did at age 18. Kpaleh is looking forward to completing his sentence and beginning his life anew. Because it is the duty of the court to “always sentence the defendant as he stands before the court on the date of sentencing”³, the court should acknowledge Kpaleh’s youth at the time of the offense, depart downward, and sentence Kpaleh to the low-end range of the party’s Rule 11 agreement.

² PSR, p. 3, ¶13.

³ *Pepper v. U.S.*, 562 U.S. 476, 492 (2011)

CONCLUSION

The court should depart downward and sentence Kpaleh to a term of imprisonment of 60 months.

DATED: March 6, 2025

/s/ Sam Meziani
Attorney for Emmanuel Abdo Kpaleh